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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No
09/097,243

Applicant(s)

Manne

Examiner

Rodney Fuller

Group Art Unit

2851



X Responsive to communication(s) filed on Oct 6, 2000

X This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C D 11, 453 O G 213

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned (35 U S C § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

X Claim(s) 1-14 is/are pending in the application

Of the above, claim(s) _____ is/are withdrawn from consideration

Claim(s) _____ is/are allowed

X Claim(s) 1-14 is/are rejected

Claim(s) _____ is/are objected to

Claims _____ are subject to restriction or election requirement

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948

The drawing(s) filed on _____ is/are objected to by the Examiner

The proposed drawing correction, filed on _____ is approved disapproved

The specification is objected to by the Examiner

The oath or declaration is objected to by the Examiner

Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U S C § 119(a)-(d)

All Some* None of the CERTIFIED copies of the priority documents have been received

received in Application No. (Series Code/Serial Number) _____

received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received _____

Acknowledgement is made of a claim for domestic priority under 35 U S C § 119(e)

Attachment(s)

Notice of References Cited PTO-892

Information Disclosure Statement(s) PTO-1449 Paper No(s) _____

SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Remarks

In response to applicant's Response to Office Action, dated October 6, 2000; the examiner acknowledges the corrections of the objections related to the Specification set forth in the First Office Action mailed September 7, 2000.

The amendment of claim 6 has addressed the 35 U.S.C. 112 rejection set forth in the First Office Action mailed September 7, 2000.

In regards to the 35 U.S.C. 102(b) rejection of claims 1-14 as being anticipated by Martin (US 5,610,674); the applicant argues (page 3, 2nd paragraph of Response) that "Martin teaches a scent delivery system wherein there are a plurality of conduits" and amended claim 1 to "recite that a single conduit delivers scented air to the user's nose." (page 3, 3rd paragraph of Response - underline emphasis added by applicant). The examiner maintains that although Martin discloses a "plurality" of conduits it also read on the claim limitations of claim 1 of a "single conduit". It is clear that a single conduit of Martin could be used by itself. Furthermore, it has been held that omission of an element and its function in a combination where the remaining elements perform the same functions as before involves only routine skill in the art. *In re Karlson*, 136 USPQ 184.

The applicant further argues (page 3, last paragraph of Response) that "one of the novel that claim 8 particularly points out and distinctly claims that aspect of the present invention."

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The examiner maintains that Martin (US 5,610,674) discloses "an exhaust conduit connected to said nasal interface to remove scent-laden air from the user's nasal area." (See column 7, lines 40-48). (See 35 USC § 102 section below)

Regarding claim 11, the applicant further argues (page 4, last paragraph of Response) that "the present invention mixes the scent-laden air to form a mixture and delivers this mixture of air to the user's nose." The examiner maintains that Martin (US 5,610,674) discloses the claim limitations set forth in claim 11. (See 35 USC § 102 section below)

Hence, the examiner has considered the applicant's arguments in light of the amended claims and maintains the rejections.

Claim Rejections - 35 USC § 102

1 The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country more than one year prior to the date of application for patent in the United States

2 Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Martin (US 5,610,674)

Martin (US 5,610,674) discloses all the structure set forth in the claims Martin (US interface (Fig. 1, ref # 37) by means of a conduit (Fig. 1, ref # 40) the nasal interface being

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adapted to be worn by a user of said system in close proximity to the user's nasal cavity (see Fig 1), said nasal interface thereby providing said scent-laden air directly to said user's nasal cavity (see Abstract)."

Regarding claim 2, Martin (US 5,610,674) discloses "wherein said scent generator is a canister of compressed scent-laden air." (See Abstract, last two lines)

Regarding claims 5-7 and 12 Martin (US 5,610,674) discloses "wherein the nasal interface is a mask which covers the nasal cavity of a user." (See Figure 1, ref # 37)

Regarding claim 8, Martin (US 5,610,674) discloses "an exhaust conduit connected to said nasal interface to remove scent-laden air from the user's nasal area " (See column 7, lines 40-48).

Regarding claim 9, Martin (US 5,610,674) discloses "a biofeedback system" in column 3, lines 12-47

Regarding claim 11, Martin (US 5,610,674) discloses "a mixing bed" in column 7, line 49 - column 8, line 8

Regarding claim 14, Martin (US 5,610,674) discloses a video game system (ref # 161) in column 7, lines 9-28 that would include a "microprocessor" for controlling the fragrance dispenser

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Conclusion


3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney Fuller whose telephone number is (703) 306-5641. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russ Adams, can be reached on (703)308-2847.

REF


Russell Adams
Primary Examiner